

Message Text

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TAGS:OVIP

SUBJECT: VISIT OF ATTORNEY GENERAL BELL

1. FOLLOWING PAPER WAS PROVIDED TO CANADIAN EMBASSY JUNE 10.

2. TITLE OF TEXT: UNITED STATES PROPOSAL OF PRINCIPLES TO
GUIDE A NEGOTIATION OF A CANADIAN-UNITED STATES
ANTITRUST CONSULTATION AND COOPERATION AGREEMENT
BEGIN TEXT: EACH GOVERNMENT ACKNOWLEDGES THE
SOVEREIGN RIGHT OF THE OTHER TO APPLY ITS LAWS TO CONDUCT
(WHICH MAY CONSIST OF ACTS OR FAILURE TO ACT) WITHIN OR
HAVING A SUBSTANTIAL EFFECT WITHIN ITS TERRITORY IN
VIOLATION OF ITS LAW, AND TO REGULATE THE CONDUCT OF
ITS NATIONALS ABROAD.

EACH GOVERNMENT RECOGNIZES THAT THERE MAY BE
CONFLICTS OF JURISDICTION AND LAW WITH THE OTHER WHERE
ONE GOVERNMENT SEEKS TO APPLY ITS LAWS TO PERSONS OR
CONDUCT OUTSIDE ITS TERRITORY.

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IN SUCH CASES EACH GOVERNMENT RECOGNIZES THAT, IN
ACCORDANCE WITH PRINCIPLES OF INTERNATIONAL LAW AND
COMITY, A GOVERNMENT SHOULD TAKE INTO ACCOUNT THE

IMPORTANT NATIONAL INTERESTS OF THE OTHER IN DETERMINING
WHETHER TO APPLY ITS LAW IN A PARTICULAR CASE. TO THIS

END A GOVERNMENT CONTEMPLATING APPLICATION OF ITS LAW WHICH IT HAS REASON TO BELIEVE MIGHT AFFECT IMPORTANT NATIONAL INTERESTS OF THE OTHER GOVERNMENT SHOULD NOTIFY ANY IMPORTANT NATIONAL INTERESTS INVOLVED, SHOULD BE PREPARED TO CONSULT WITH IT REGARDING THE CONTEMPLATED APPLICATION OF LAW, AND SHOULD TAKE INTO ACCOUNT THE IMPORTANT NATIONAL INTERESTS OF THE OTHER IN CONDUCTING LEGAL PROCEEDINGS AND IN FASHIONING LEGAL REMEDIES.

THE GOVERNMENTS ALSO RECOGNIZE THAT THEY SHOULD COOPERATE AND ASSIST EACH OTHER IN THE ENFORCEMENT OF THEIR RESPECTIVE ANTITRUST LAWS THROUGH THE EXCHANGE OF AVAILABLE INFORMATION, TO THE EXTENT CONSISTENT WITH NATIONAL DEFENSE OR INVESTIGATIVE SECRECY LIMITATIONS, STATE, PROVINCIAL OR FEDERAL LAWS, OR LEGALLY RECOGNIZED PRIVILEGES. INFORMATION SHALL NOT BE WITHHELD BY A GOVERNMENT OR ITS AGENT DUE TO NATIONAL SECURITY LIMITATIONS UNLESS SUCH INFORMATION IS APPROPRIATELY RESTRICTED UNDER THAT NATION'S NATIONAL SECURITY DOCUMENT CLASSIFICATION LAWS.

FURTHERMORE, EACH GOVERNMENT SHOULD INTERPOSE NO BARRIERS TO THE ABILITY OF THE OTHER TO ACQUIRE FROM PRIVATE PERSONS INFORMATION FOR THE PURPOSE OF CARRYING OUT THE APPLICATION OF ITS LAW, SUBJECT ONLY TO A PARAMOUNT NATIONAL INTEREST.

THE GOVERNMENTS RECOGNIZE THAT THEY HAVE A COMMON INTEREST IN CONTROLLING OR ELIMINATING UNAUTHORIZED LIMITED OFFICIAL USE

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RESTRICTIVE BUSINESS PRACTICES ADVERSELY AFFECTING INTERNATIONAL TRADE, AND AGREE THAT THEY SHOULD COOPERATE WITH EACH OTHER IN DEALING WITH SUCH RESTRAINTS.

THE GOVERNMENTS SHOULD UNDERTAKE FUTURE DISCUSSIONS TO FORMALIZE AND STRENGTHEN ARRANGEMENTS FOR IMPLEMENTING THE PRINCIPLES SET OUT ABOVE, AND TO EXPLORE AND, IF APPROPRIATE, ESTABLISH PRINCIPLES OF AND ARRANGEMENTS FOR EVEN MORE EXTENSIVE COOPERATION. THIS MAY INCLUDE PROVIDING INFORMATION THAT ITS ANTITRUST AUTHORITIES MAY OBTAIN UNDER ITS ANTITRUST AND COMPULSORY PROCESS LAWS, SO FAR AS SUCH INFORMATION MAY BE OF USE TO THE OTHER GOVERNMENT IN THE ENFORCEMENT OF ITS ANTITRUST LAWS. CHRISTOPHER

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